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OFFICE OF
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Reply to: OCE-127

SEP 29 2011

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Return Receipt Requested

James Cagle, Risk Manager - EHS
Nu-West Industries, Inc.
Agrium Conda Phosphate Operations
3010 Conda Road
Soda Springs, Idaho 83276

Re: EPA Approval of Off-Site Sampling Plan, Sampling and Analysis Work Plan Addendum, Nu-West Industries, Inc., Conda Phosphate Operations Facility; dated September 19, 2011
EPA Docket No. RCRA-10-2009-0186

FILE COPY

Dear Mr. Cagle:

The purpose of this letter is to approve the Off-Site Soil Sampling Plan Sampling and Analysis Work Plan Addendum ("Sampling Plan") submitted to EPA by Agrium Nu-West Industries, Inc. ("Nu-West") as a revised submission on September 20, 2011. Pursuant to Paragraph 69 of the Administrative Order on Consent ("Order"), Docket No. RCRA-10-2009-0186, the Sampling Plan is approved as modified below.

On page 5, Section 1.3.5 Develop a Decision Rule, the paragraph is modified to read as follows:

The investigation activities include the generation of chemical and radiological data for soil. The background data will be compared to the screening levels. Where background concentrations exceed the screening levels or where no screening levels exist, the background levels will be used for screening purposes. The off-site data, i.e., for the Subject Property, will be compared to the risk-based screening levels (or other) to determine the need for and scope of additional activities. The sampling and analytical methods described herein are adequate to meet these objectives. Screening levels and comparative values in the decision rule are described in Section 5.2.

On page 7, Section 3.1.1 Background DUs, the second paragraph is modified to read as follows:

Approximate 1-acre plots in each of the three background properties have been identified as DUs (Figures 7a, 7b, and 7c). Selection of the smaller area to be sampled within the larger areas will be performed through a random or non-judgemental process to ensure representativeness.

On page 9, Section 3.2.1 Sample Locations, the last paragraph is modified to read as follows:

One set of triplicate samples will be collected from each of the three background properties. Triplicate samples are necessary from each of the three background areas to support statistical evaluation by EPA to ensure that the properties are not contaminated. One set of triplicate

samples will be collected in each of five release areas: the on-site 2003 release area and adjacent off-site area, Areas A1 and Area B related to the 2006 release, and the 2009 release area.

On page 9, footnote 4 is deleted.

On Page 14, Section 5.1 Sample Concentrations, the second and third bullet items are modified to read as follows:

- Triplicate MIS samples will be collected from these DUs:
 - Background - North Property
 - Background - Central Property
 - Background - South Property
 - Release Areas
 - o 2003 on and off site
 - o 2006 Area A1 and Area B
 - o 2009 DU
- The MIS results for the background properties will be evaluated for significant differences between locations. If significant differences are not observed, then results will be pooled and used to calculate the mean, variance, standard deviation (SD), and 95% UCL for background. If significant differences between locations are observed, then EPA will reevaluate the adequacy of the background data as an input to the decision to conduct a risk assessment.

On Page 15, Section 5.2 Screening Levels, is modified to include a new section 5.2.3, which reads as follows:

5.2.3 Decision Rule

If the UCL .95 of the mean soil concentration of any COPC with a Decision Unit is greater than the Comparative Value (CV), then perform a quantitative risk evaluation (for that constituent). CVs are defined as follows:

- CV is the lesser of the human health or ecological screening level, unless this value is below background.
- If either the human health or ecological screening level is above background, then it becomes the CV.
- If both ecological and human health screening level values are below background, then background is the CV.

On Page 15, Section 5.3 Screening Level Process, the first paragraph is modified to read as follows:

To determine if impact from any of the releases occurred, a comparison of the 95% UCL concentrations for background and the individual release area DUs will be performed. Exceedences of background concentrations will be indicative of potential impact and will be evaluated for statistical and risk significance.

Page 17, Section 7 of the Sampling Plan submitted to EPA stated that, "A preliminary schedule developed for the background and off-site sampling activities and reporting is provided in Figure 11." Several other contingencies were specified, and the section concluded by stating that, "The actual schedule will be modified as appropriate based on the results of the screening activities."

As indicated in our comment letter to Nu-West dated August 19, 2011, EPA stated that a tentative, preliminary, approximate or estimated schedule does not provide a site specific schedule for expeditious completion of all activities and would not be approved. Paragraph 62 of the Order requires a timeline for the work. Schedules may be adjusted under the Order, when appropriate, per Paragraph 129 of the Order. Section 7 of the Sampling Plan is therefore modified in its entirety to read as follows:

The schedule for the background and off-site sampling activities and reporting is provided in Figure 11. The start date for the field activities is 3 weeks after receipt of EPA's approval of this Sampling Plan. As shown in the schedule, background samples will be collected first followed by sampling on the Subject Property.

The schedule includes assimilation and manipulation of the background data in support of the screening activities, submittal of the letter report presenting the background UCL concentrations and screening levels, and review and approval periods for this submittal.

The schedule includes the initial comparison of data for the release area DU samples from 2 to 6 in-bgs. Based on the findings (i.e., exceedences of screening levels), laboratory analysis of samples collected from the next deeper interval may then be performed. The schedule assumes this iterative process will be complete for all DUs at 2.5 ft-bgs for non-radiological parameters and 1.5 ft-bgs for radiological parameters. Any requests to modify the schedule will be in accordance with the requirements of the June 2009 Administrative Order on Consent between Nu-West and the EPA.

As provided by Paragraph 69 of the Order, the Sampling Plan as revised and approved above is deemed incorporated into and made an enforceable part of the Order. Nu-West needs to proceed with implementation of the Sampling Plan, as revised. Nu-West may invoke the Dispute Resolution provisions of Section XVII of the Order. If you have any questions, feel free to call me at (206) 553-2964. Alternatively, you may reach me via email at: Magolske.Peter@epamail.epa.gov. Thank you for your attention to this important matter.

Sincerely,



Peter Magolske
Air / RCRA Compliance Unit

cc: Brian Monson, Idaho Department of Environmental Quality
P. Scott Burton, Esq. Hunton and Williams LLP